

ARGUMENTS/REMARKS

Claims 1 through 6 and 8 through 30 are presented for consideration upon entry of the instant amendment which is respectfully requested. Claims 1, 9, 14, and 19 are amended and claims 25 through 30 are presented as new in the present amendment.

The paragraph of the specification beginning at page 7, line 16, has been amended to include that "[t]he support layer may be shaped to only extend under and along a lower and side breast profile of a wearer's breasts when the undergarment is worn, as shown in Figure 1." Support for the amendment to the specification may be found at least in Figure 1, original claim 8, and the paragraph of the specification beginning at page 7, line 16 as originally filed.

The Action rejects claims 1 through 6 and 8 through 24 under 35 U.S.C. §102(b) over U.S. Patent No. 3,070,870 to Alexander et al. ("Alexander").

Applicants respectfully traverse these rejections.

Claim 1 requires "a transparent layer", "an intermediate layer", and "a support layer" where the intermediate layer has elastic properties to permit stretching of the intermediate layer with said support layer and said transparent layer.

The Alexander patent is not directed to an brassiere having an intermediate layer that has elastic properties to permit stretching with said support layer and said transparent layer, as claimed. In contrast, the Alexander patent specifically states, at column 4, lines 40 through 66, that the "invention contemplates producing a relatively tight lace or net or tulle 1 from controlled partially drawn thermoplastic yarns." The Alexander patent further states that "[h]eat setting of the drafted fibers serves the function of preventing "elastic memory" and maintains the aforesaid optimal physical properties of the drafted yarns. Importantly, the Alexander patent states that "interlining layer 19, which is also identical in fabrication and molding to the lace layers 7,8 may

also be provided, and differs in that it may be fabricated as a net of coarse mono-filaments which is naturally stiff and will give the desired shaping and uplifting to the assembly.” (columns 7, lines 53 through 64). Clearly, the Alexander patent does not disclose an intermediate layer that has elastic properties to permit stretching with the support layer and the transparent layer. The above noted passages from the specification expressly disclose subject matter that is contrary to the claimed subject matter. The Alexander patent does not anticipate claim 1 or any of the claims that depend therefrom. Reconsideration and withdrawal of the 35 U.S.C. 102(b) rejection are respectfully requested.

Further, Alexander has a lace layers 7,8, an interlining 19, and a second cup layer 17. Here, the second cup layer 17 is a soft tulle lining faced inward for comfort. Interlining 19 is a net of course mono-filaments that is naturally stiff.

Thus, the portion of Alexander that the Action asserts as being the claimed “support layer” is the soft comfort tulle (e.g., lace) layer 17. More particularly, the Action states that this soft layer provides support as broadly claimed since any additional layer would provide support.

Applicants disagree.

It is simply not possible for the soft layer of Alexander to provide any support since this layer is attached to the interlining 19 that is stiff. How can a soft layer support a stiff one?

Therefore, the soft cup layer 17 of Alexander does not disclose or suggest the “support layer” of claim 1.

Claim 1 also requires that the intermediate layer is “for adhering or fusing said transparent layer and said support layer”.

In contrast, Alexander discloses that the fabric can be prepared for molding by padding it with a composition of water and thermosetting resin, thermoplastic resin and silicone resin that when used in large quantities also can adhere the fabric layers together. See col. 7, line 65 to col. 8, line 9.

Accordingly, the interlining 19 of Alexander is a stiff support layer but it is not for adhering or fusing said transparent layer and said support layer. Rather, Alexander discloses that the composition of resins used in large quantities, and not the interlining, adheres the fabric layers together.

Therefore, the interlining 19 of Alexander does not disclose or suggest the intermediate layer of claim 1 that adheres or fuses the transparent layer and the support layer.

Claims 2 through 6 and 8 depend from claim 1, and, thus, are also not disclosed or suggested by Alexander.

Claim 5 provides the undergarment of claim 4, and further includes that the support layer is "a support material having elastic characteristics."

Alexander provides that the "yarns of the fabric comprise filaments which are thermoplastic." (col. 3, line 20-21). Alexander further provides "thermosetting resin has the predominant effect on the textile finish and properties of the goods, such as permanence of hand, enhanced crease resistance and appearance." (col. 7, line 74 through col. 8, line 2). Alexander also provides that the "essential attributes that must accompany any brassiere cups to render them commercial includes comfort to the wearer, that they be fabricated from textile materials, that they have permanence of form." (col. 1, lines 51-54). Thus, Alexander fails to disclose or suggest a support material having elastic characteristics, as recited by claim 5. Rather, Alexander provides planar fabrics that have thermosetting resin that results in "permanence of form".

Claim 8 provides that the undergarment of claim 1, further includes that the support layer “is shaped to only extend under and along a lower and side breast profile of a wearer’s breasts when the undergarment is worn.”

As clearly shown in Figures 1, 7, and 9 of Alexander, all of the planar fabric is continuous in the finished molded cups identified by reference numerals 7 and 8. Thus, Alexander fails to disclose or suggest that the support layer is shaped to only extend under and along a lower and side breast profile of a wearer’s breasts when the undergarment is worn, as recited in claim 8.

Independent claim 9 recites “a seamless support layer”, “a seamless transparent layer”, and “an adhesive or fusing layer,” where the adhesive or fusing layer “securely adheres or fuses said seamless transparent layer to said seamless support layer.” Independent claim 9 also now claims that the adhesive or fusing layer has elastic properties to permit stretching of the adhesive or fusing layer with said support layer and transparent layer.

As discussed above for claim 1, the interlining 19 of Alexander fails to disclose or suggest an intermediate layer for adhering or fusing the transparent layer and the support layer. Alexander also fails to disclose or suggest that the adhesive or fusing layer securely adheres or fuses the seamless transparent layer to the seamless support layer, as recited by claim 9. Further, as discussed above with regard to independent claim 1, the Alexander patent does not provide an express recitation of any intermediate layer having elastic properties to permit stretching of the intermediate layer with the support layer and the transparent layer, as claimed.

Claims 10 through 13 depend from claim 9, and, thus, are also not disclosed or suggested by Alexander.

Furthermore, claim 13 provides that the support layer is “is shaped to only extend under and along a lower and side breast profile of a wearer’s breasts to substantially support said breasts when the undergarment is worn.”

As discussed above for claim 8, Alexander fails to disclose or suggest that the support layer is shaped to only extend under and along a lower and side breast profile of a wearer’s breasts to substantially support said breasts when the undergarment is worn, as recited in claim 13.

Independent claim 14 recites, in part, the step of “adhering or fusing the support layer with the adhesive or fusing layer to a transparent layer to provide seamless connection.”

Further Alexander does not provide seamless connection. See Figure 8.

Additionally, claim 14 requires “cutting said support layer combined with said adhesive or fusing layer to a desired shape.” In contrast, Alexander provides “a finished fabric 1 having two cups 7 and 8 molded therein. When such a pair is produced, it is practical to sew it as a unit into a brassiere assembly. It is also possible to produce cups 7 and 8 together as a unit and then to mount them after trimming singly into a brassiere assembly such as 9.” (col. 8, lines 73 – col. 9, line 3). As discussed above with independent claims 1 and 9, the Alexander also does not disclose, and in fact teaches contrary to providing an adhesive or fusing layer having elastic properties to permit stretching of the adhesive or fusing layer with the support layer.

Thus, Alexander clearly molds all of the planar layers prior to trimming. Therefore, Alexander fails to disclose or suggest cutting the support layer combined with the adhesive or fusing layer to a desired shape, as recited by claim 14.

Claims 15 through 18 depend from claim 14, and, thus, are also not disclosed or suggested by Alexander.

Further, dependent claim 17 provides that the support layer of claim 15, is “a material having elastic characteristics.”

As discussed above for claim 5, Alexander discloses planar fabrics that have “permanence of form” and, not, elastic characteristics as in claim 17.

In addition, claim 18 provides that the support layer is “shaped so that when the undergarment is worn, said support layer only extends under and along a lower and side breast profile of a wearer’s breasts.”

As discussed above for claim 8, Alexander fails to disclose or suggest that the support layer is shaped so that when the undergarment is worn, the support layer only extends under and along a lower and side breast profile of a wearer’s breasts, as recited in claim 18.

Independent claim 19 provides “a support layer”, “a transparent layer”, “an intermediate layer”, where the intermediate layer is “for adhering or fusing an outer surface of said transparent layer and an inner surface of said support layer.”

As discussed above for claim 1, the interlining 19 of Alexander fails to disclose or suggest an intermediate layer for adhering or fusing the transparent layer and the support layer. Similarly, Alexander also fails to disclose or suggest that the intermediate layer is “for adhering or fusing an outer surface of said transparent layer and an inner surface of said support layer”, as recited in claim 19.

Claim 19 also requires that the support layer is “shaped so that when the brassiere is worn, said support layer only extends under and along a lower and side breast profile of a wearer’s breasts.” Claim 19 also claims that the intermediate layer has elastic properties to permit stretching with the intermediate layer with the support layer and the transparent layer. These limitations are not disclosed in the Alexander patent as discussed above.

As discussed above for claim 8, Alexander fails to disclose or suggest that the support layer is shaped so that when the brassiere is worn, the support layer only extends under and along a lower and side breast profile of a wearer's breasts, as recited in claim 19.

Claims 20 through 24 depend from claim 19, and, thus, are also not disclosed or suggested by Alexander.

Dependent claim 21 provides the undergarment of claim 19, and further includes that "said intermediate layer is selectively applied to a portion of the brassiere."

Dependent claim 22 provides the undergarment of claim 21, and further includes that "said portion comprises a lower portion that corresponds to a wearer's breasts."

Alexander fails to disclose or suggest that the intermediate layer is selectively applied to a portion of the brassiere, as recited by claim 21, let alone that the portion comprises a lower portion that corresponds to a wearer's breasts, as recited by claim 22. Alexander merely provides that "a second cup layer which may be fabricated in the same manner and molded to conform to the lace layers 7, 8" and an "interlining 19 which is also identical in fabrication and molding to the lace layers 7, 8 may also be provided." (col. 7, lines 54-56 and lines 58-60).

Claim 24 provides the undergarment of claim 19, and also includes that "said intermediate layer is elastic."

The Action asserts that Alexander has an intermediate layer 19. The innerlining 19 of Alexander "may be fabricated as a net of coarse mono-filaments which is naturally stiff and will give the desired shaping and uplifting to the assembly." (col. 7, lines 58-63). Thus, Alexander fails to disclose or suggest an intermediate layer that is elastic, as recited by claim 24. Rather, Alexander provides that the innerlining 19 is stiff.

Accordingly, reconsideration and withdrawal of the 102(b) rejections to claims 1 through 6 and 8 through 24 are respectfully requested.

Further, Alexander has a lace layers 7,8, an interlining 19, and a second cup layer 17. Here, the second cup layer 17 is a soft tulle lining faced inward for comfort. Interlining 19 is a net of course mono-filaments that is naturally stiff.

Thus, the portion of Alexander that the Action asserts as being the claimed "support layer" is the soft comfort tulle (e.g., lace) layer 17. More particularly, the Action states that this soft layer provides support as broadly claimed since any additional layer would provide support.

Applicants disagree.

It is simply not possible for the soft layer of Alexander to provide any support since this layer is attached to the interlining 19 that is stiff. How can a soft layer support a stiff one?

Therefore, the soft cup layer 17 of Alexander does not disclose or suggest the "support layer" of claim 19.

Claim 19 also requires that the intermediate layer is "for adhering or fusing said transparent layer and said support layer".

In contrast, Alexander discloses that the fabric can be prepared for molding by padding it with a composition of water and thermosetting resin, thermoplastic resin and silicone resin that when used in large quantities also can adhere the fabric layers together. (col. 7, line 65 - col. 8, line 9).

Accordingly, the interlining 19 of Alexander is a stiff support layer that is not for

adhering or fusing said transparent layer and said support layer. Rather, Alexander discloses that the composition of resins used in large quantities, and not the interlining, adheres the fabric layers together.

Therefore, the interlining of Alexander does not disclose or suggest the intermediate layer of claim 19 that adheres or fuses the transparent layer and the support layer.

Claim 19 further provides “wherein said support layer extends primarily under a wearer’s breasts along a lower and side breast profile, and wherein said transparent layer covers a portion of said wearer’s breasts where said support layer does not extend.”

Alexander provides “there is a second cup layer 17 which may be fabricated in the same manner and molded to conform to the lace layers 7, 8” and “[a]n inner lining 19 which is also identical in fabrication and molding to the lace layers 7, 8.” (col. 7, 54-59). In addition, as clearly shown in Figures 1, 8, and 9, second cup layer 17, lace layers 7, 8, and inner lining 19 cover substantially the same portion of a wearer’s breasts. Thus, Alexander fails to disclose or suggest that the support layer extends primarily under a wearer’s breasts along a lower and side breast profile and that the transparent layer covers a portion of the wearer’s breasts where the support layer does not extend, as recited in claim 19.

Accordingly, reconsideration and withdrawal of the 102(b) rejections to claim 19 are respectfully requested.

New independent claim 25 provides a brassiere that includes two breast supporting cup portions each having a transparent layer that is a material selected from the group consisting of chiffon, georgette, voile, illusion, organza, and tulle. The material is elastic and nylon/spandex mix. A support layer is less flexible than the transparent layer. The support layer is a nylon/spandex mix. An adhesive layer that is

a thermoadhesive has elastic properties. The adhesive layer is selectively applied to the support layer forming an adhesive-support layer to provide support in specific areas of the brassiere. The adhesive-support layer is adhered to the transparent layer.

Andersen merely provides "yarns of the fabric comprise filaments which are thermoplastic" and "the thermoplastic yarns selected should be as nearly fully drawn to a predetermined degree as possible before molding." (col. 3, line 21-22 and col. 4, lines 52-54). Thus, not only does the Alexander patent fail to disclose or suggest that the material is elastic and nylon/spandex mix, let alone that the support layer is less flexible than the transparent layer, the support layer is a nylon/spandex mix, or an adhesive layer that is a thermoadhesive has elastic properties, as recited by claim 25, Alexander teaches away from the above-described features of claim 25.

Further, as clearly shown in Figures 1, 8, and 9, Alexander provides "there is a second cup layer 17 which may be fabricated in the same manner and molded to conform to the lace layers 7, 8" and "[a]n inner lining 19 which is also identical in fabrication and molding to the lace layers 7, 8." (col. 7, 54-59). Alexander discloses that the fabric can be prepared for molding by padding it with a composition of water and thermosetting resin, thermoplastic resin and silicone resin that when used in large quantities also can adhere the fabric layers together. (col. 7, line 65 - col. 8, line 9). Thus, Alexander fails to disclose or suggest that the adhesive layer is selectively applied to the support layer forming an adhesive-support layer to provide support in specific areas of the brassiere, as recited by claim 25.

Accordingly, Applicants respectfully submit that claim 25 is patentable over the cited art.

New independent claim 26 provides a brassiere comprising two breast cup portions each having a transparent inner layer, a transparent outer layer, and an adhesive layer fusing the transparent inner and outer layers to one another. The adhesive layer defines a pattern that can be seen through the transparent inner and

outer layers.

New claim 27 provides the brassiere as in claim 26, and further provides that the pattern of the adhesive layer provides support in selected regions of the two breast cup portions, and that the pattern extends diagonally from a top side portion of each of the two breast cup portions to a bottom center portion of each of the two breast cup portions.

New independent claim 28 provides a brassiere that includes two breast cup portions each having a transparent inner layer, an outer layer, and an adhesive layer fusing the transparent inner layer and the outer layer to one another. The adhesive layer is transparent.

New claim 29 provides the brassiere as in claim 28, and further includes that the outer layer comprises a pattern that can be seen through the adhesive layer and the inner transparent layer, and that the pattern extends diagonally from a top side portion of each of the two breast cup portions to a bottom center portion of each of the two breast cup portions.

New claim 30 provides the brassiere as in claim 28, and further includes that the outer layer is transparent.

As discussed above, and as clearly shown in Figures 1, 8, and 9, Andersen provides "there is a second cup layer 17 which may be fabricated in the same manner and molded to conform to the lace layers 7, 8" and "[a]n inner lining 19 which is also identical in fabrication and molding to the lace layers 7, 8." (col. 7, 54-59). Alexander discloses that the fabric can be prepared for molding by padding it with a composition of water and thermosetting resin, thermoplastic resin and silicone resin that when used in large quantities also can adhere the fabric layers together. (col. 7, line 65 - col. 8, line 9). Thus, Alexander fails to disclose or suggest that the adhesive layer defines a pattern that can be seen through the transparent inner and outer layers, as recited by

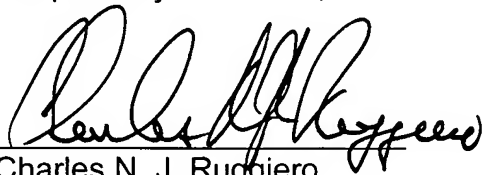
claim 26, let alone that the pattern of the adhesive layer provides support in selected regions of the two breast cup portions, or that the pattern extends diagonally from a top side portion of each of the two breast cup portions to a bottom center portion of each of the two breast cup portions, as recited by claim 27; the adhesive layer is transparent, as recited by claim 28; or that the outer layer comprises a pattern that can be seen through the adhesive layer and the inner transparent layer, or that the pattern extends diagonally from a top side portion of each of the two breast cup portions to a bottom center portion of each of the two breast cup portions, or that the outer layer is transparent, as recited by claim 29.

Accordingly, Applicants respectfully submit that claims 26 through 30 are patentable over the cited art.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited. In the alternative, it is believed that the instant amendment places the present application in better condition for appeal. Accordingly, entry and consideration of the instant amendment are respectfully requested.

Respectfully submitted,

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